



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/153972

PRELIMINARY RECITALS

Pursuant to a petition filed December 05, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on January 07, 2014, at Milwaukee, Wisconsin. The record was held open subsequent to the hearing to allow the agency to provide additional information. The agency provided the information later on January 7, 2014 and the record was closed.

The issue for determination is whether the Petitioner is eligible for FS benefits for the period of August – November, 2013.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703
By: Jose Sylvestre
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On May 7, 2013, the Petitioner's FS case closed for failure to complete a renewal.

3. On August 2, 2013, the Petitioner contacted the agency about FS benefits. He was advised to re-apply. He indicated he would go online to apply.
4. On December 2, 2013, the Petitioner contacted the agency. At that time, he completed an application and phone interview for FS benefits and was approved for benefits effective December 2, 2013.
5. On December 5, 2013, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

The Petitioner contends that he should be eligible for benefits effective August 2, 2013 because he applied online for benefits that day. He testified that he assumed that he had been approved but did not follow up because he had medical issues subsequent to his application. He kept a record of his tracking number. He stated that he never received any confirmation email that his application was received. When he called the agency in December to follow up on his application, he was told there is no record of the tracking number or any application having been submitted.

The agency testified that ACCESS online does provide a tracking number for applications but that there is no record of the tracking number provided by the Petitioner and no record of an application being submitted by him in or about August, 2013. There was a question at the hearing whether the system would provide a tracking number prior to submission of the application. The agency submitted information subsequent to the hearing indicating that the tracking number is assigned as soon as the application process begins but it will not be valid until the application is actually submitted. The agency further indicates that there is no way to track an application with the tracking number unless the application was completely submitted.

Without any additional evidence, it is not possible to conclude that the Petitioner submitted a complete application to the agency in or about August, 2013. Had an application been submitted, the Petitioner would have received a confirmation email as well as an appointment for a phone interview. The Petitioner did not receive any such confirmation. Therefore, I cannot conclude that the application was submitted. Without additional proof of submission of an application, I cannot conclude that the Petitioner was entitled to FS benefits for the period of August – November, 2013.

CONCLUSIONS OF LAW

There is no evidence of a complete application being submitted by the Petitioner in or about August, 2013 and therefore I cannot conclude that the Petitioner is entitled to FS benefits for the period of August – November, 2013.

THEREFORE, it is

ORDERED

That the petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 31st day of January, 2014

\sDebra Bursinger
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on January 31, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability